

## REMARKS

Applicant traverses the rejection of the pending claims under 35 U.S.C. § 103 as being unpatentable over Sturner et al. (U.S. Patent No. 5,303,327). Nonetheless, in order to expedite these proceedings, claims 1, 7, 8, 14, 16 and 17 have been amended to include elements that are not shown by any of the references of record.

Applicant received a final rejection of claims 1 through 8 and 10 through 17 under 35 U.S.C. § 103(a) as being unpatentable over Sturner et al. (U.S. Patent No. 5,303,327). Applicant submits that Sturner et al. fail to show or suggest the claimed subject matter.

As an initial matter, Sturner et al. fail to establish a *prima facie* case of unpatentability. As the Examiner previously recognized, “Sturner fail to explicitly teach that the subject score accounts for an ability of the speech recognition system to accurately recognize the spoken response.” Office Action of June 7, 2002, at p.4. Nonetheless, because “Sturner take into account noise parameters that may affect the subject’s input,” the Examiner concluded that “it would have been obvious to one of ordinary skill in the art at the time the invention was made to take into account the ability of the speech recognition system, replacing a human operator, to accurately recognize speech because it is well known in the art that recognition errors and input noise have negative effect on the evaluation of the subject’s response.” *Id.*

This conclusory statement, unsupported by evidence of record, is insufficient to bolster Sturner et al. into a *prima facie* case of unpatentability. *See, e.g., In re Lee*, 277 F.3d 1338, 1342-43 (Fed. Cir. 2002) (explaining requirement for “objective evidence of record”). In addition, the conclusion regarding obviousness based on the knowledge of those skilled in the art simply does not logically follow from Sturner et al.’s disclosure. In particular, referring to Figure

2, Sturner et al. merely suggest the use of noise 40 as a “masking signal,” or component to a “masking signal,” that is *presented* “to the headphones 32 of the test subject substantially simultaneously with the presentation of stimulus.” *See* Col. 8, lines 35-47. Thus, Sturner shows that noise may be used to alter the stimulus *presented* to the test subject.

On the other hand, Sturner et al. say nothing about applying noise to the speech recognition system, much less describing *any* system or method for accounting for inaccuracies in the speech recognition system due to noise or any other problem. The present application explains:

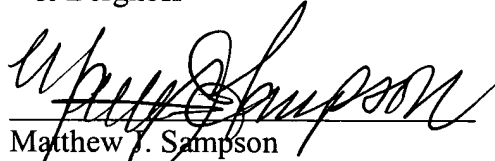
A further disadvantage to this evaluation technique is that it typically does not account for the accuracy, or more importantly the inaccuracy, of the speech recognition system. Known speech recognition systems may interpret a response incorrectly. For example, speech recognition systems typically are implemented with a predetermined vocabulary. Such a system is likely to react inaccurately to a response that falls outside of the vocabulary. Speech recognition systems also may make errors in recognizing responses to items that are in the vocabulary, particularly short words. As used herein, “recognizing” a response means recognizing the linguistic content and/or other characteristics of the response. The accuracy of the speech recognition system may be thought of as a measure of the character and quantity of errors made by the speech recognition system.

Page 3, line 16 – page 4, line 1. Because Sturner et al. fail to show or suggest a system or method that accounts for inaccuracies of the speech recognition system, the claimed subject matter is not rendered obvious by Sturner et al.

In any event, Sturner et al. show only applying *white noise* 40 as a masking signal, or component thereof. *See* Sturner, Fig.2.

In light of the foregoing, Applicant submits that the application is now in condition for allowance and notice to that effect is hereby requested. If the Examiner believes that further dialogue would facilitate allowance of the application, he is invited to telephone the undersigned at (312) 913-0001.

Respectfully submitted,  
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